Government of Kerala
1975

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Thursday, 23rd October 1975 / 1st Karthika 1897 [No. 620

GOVERNMENT OF KERALA

Local Administration and Social Welfare (C) Department

NOTIFICATION

G.O. MS. No. 278/75/LA & SWD.

Dated, Trivandrum, 23rd October 1975.

S. R. O. No. 980/75.—In exercise of the powers conferred by the proviso to sub-section (1) of section 3 and section 4 of the Kerala Public Service Commission (Additional Functions as Respects the Services under Local Authorities) Act, 1973 (23 of 1973), the Government of Kerala in consultation with the Public Service Commission hereby make the following rules, namely:—

RULES

1. *Short title and commencement.*—These rules may be called the Kerala Public Service Commission (Additional Functions as Respects the Services under Local Authorities) Rules, 1975.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(1) 'act' means The Kerala Public Service Commission (Additional Functions as Respects the Services under Local Authorities) Act, 1973;

(2) 'appointing authority' means the Officer or Authority authorised by the Government in this behalf and different Officers and Authorities may be authorised for different services;

(3) 'Commission' means the Kerala Public Service Commission;

(4) 'employee' means an employee under the Local Authority;

(5) 'service' means a group of persons classified by the State Government as a service for the purpose of these rules;

Note:—Where the context so requires 'service' means the period during which a person holds a post or a lien on a post or is a member of a service.

3. *Procedure to be followed by the appointing authority.*—The following procedure shall be observed by every appointing authority in referring any matter to the Commission, namely:—

(1) All reference to the Commission shall be addressed to the Secretary to the Commission by the appointing authority in the form of an official letter with which shall be forwarded all papers or copies of papers relevant to the matter referred;

(2) Note files of the offices of the appointing authorities shall on no account form part of the records sent to the Commission;

(3) When the Commission has arrived at a conclusion it will communicate its advice to the appointing authority;

(4) Where it is proposed not to accept the advice of the Commission for reasons not before the Commission at the time of making the advice, the Commission shall be consulted again.

Note:—Special care should be taken to ensure that until the Commission's advice has been obtained and a decision has been reached by the appointing authority in the light of such advice, no language is used in any communication issued in connection with the case which is capable of being interpreted as implying that the appointing authority has formed a settled opinion on the merits of any part of the case;

(5) In any case in which the advice tendered by the Commission is rejected or deviated from, the appointing authority shall communicate the reasons for such rejection or deviation to the Commission;

(6) Where it is proposed to reject or to deviate from the advice of the Commission the appointing authority shall refer the matter to the Government, and the decision of the Government thereon shall be final:

Provided that the Government, before taking a decision against the advice of the Public Service Commission, shall refer the matter to the Commission;

(7) Copies of the orders of appointment of candidates selected in consultation with the Commission shall be sent to the Commission by the appointing authority.

4. *Matters in respect of which it shall not be necessary for the Commission to be consulted.*—It shall not be necessary for the Commission to be consulted on any of the following matters:—

(i) the creation and organisation of services and posts and their designation;

(ii) the classification of services and posts;

(iii) the determination of the number of vacancies to be filled in a service in any particular year;

(iv) the determination of the strength of the cadres of different services;

(v) the determination of the salary of employees;

(vi) the determination of the initial salary of the employees recruited by promotion;

(vii) transfers of employees from one local authority to another:

Provided that once a vacancy is reported to the Commission it shall not be filled up by transfer from other local authorities.

(viii) the transfer of employees to foreign service;

(ix) the promotion made on the basis of the recommendation of the Departmental Promotion Committee;

(x) the re-employment in service of a person who has retired on a civil pension or gratuity or who while in service was a subscriber to a contributory fund.

5. It shall not be necessary to consult the Commission regarding the appointment of a person temporarily for a total period not exceeding three months in the case of each individual to a post borne on the cadre of a service, class or category to which appointment has to be made after consulting the Commission:—

(i) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in the post and there would be undue delay in making the appointment after such consultation;

(ii) Where it is necessary to fill a short vacancy in the post and the appointment of the person who is entitled to appointment under the rules applicable to the service would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience:

Provided that a person appointed under this rule by direct recruitment shall not be allowed to continue in such post for a period exceeding three months.

6. It shall not be necessary for the Commission to be consulted:—

(1) in regard to the making of any appointment to—

(a) any honorary post, or

(b) any post to which appointment is made on the basis of the terms and conditions of any special contract in order to secure the services of a person having special qualification:

Provided that in every case of appointment on contract which may involve a total period of service on contract in excess of five years, the Commission shall be consulted before the contract is made or renewed.

Explanation.—

'Honorary post' means a post the holding of which does not carry with it the right to receive any emoluments or remuneration for services rendered other than an allowance for defraying travelling and other expenses incurred in the performance of duty.

(2) in regard to—

(a) appointment of contingent and work establishment employees; or

(b) appointment of dependents of employees dying in harness, who possess the qualifications prescribed for appointment to the posts concerned and are within the prescribed age limit.

By order of the Governor,

N. GOPALAKRISHNAN NAIR,

Special Secretary to Government.

Explanatory Note

(This is not a part of this notification but is intended to indicate its general purport).

Sub-section 2 (b) of section 4 of the Kerala Public Service Commission (Additional Functions as Respects the Services Under Local Authorities) Act, 1973 enables Government to lay down the procedure to be followed by an appointing authority for consultation with Public Service Commission. Under the proviso to sub-section (1) (b) of section 3 of the Kerala Public Service Commission (Additional Functions as Respects the Services under Local Authorities) Act, 1973, Government may make rules specifying the matters in which either generally or in any particular class or case or in any particular circumstances, it shall not be necessary for the Public Service Commission to be consulted. This notification is intended for achieving the above purposes.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

33/3844/MC.